

ANDRIA TUPOLA | HONOLULU CITY COUNCIL - DISTRICT 1
'Ewa Beach, Kapolei, Mā'ili, Mākaha, Makakilo, Nānākuli, Wai'anae

MEMORANDUM

DATE: MARCH 21, 2022

TO: GAIL UYEHARA
CLERK, COMMITTEE ON ZONING AND PLANNING

FROM: COUNCILMEMBER ANDRIA TUPOLA
HONOLULU CITY COUNCIL

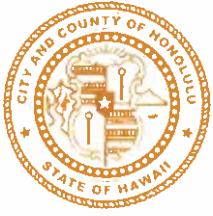
RE: PROPOSED ADDITIONAL AMENDMENTS TO THE POSTED
PROPOSED CD2 TO BILL 41 (2021), RELATING TO TRANSIENT
ACCOMMODATIONS

20220321 PM 3:54 CITY CLERK

Attached for consideration by the Zoning and Planning Committee at its meeting on March 23, 2022, are additional amendments to the posted proposed CD2 of Bill 41 (2021) (OCS2022-0224/3/17/2022 11:35 AM).

The additional proposed amendments would further amend the posted proposed Bill 41 (2021), CD2, as shown in the attached markup. The amendments are summarized as follows:

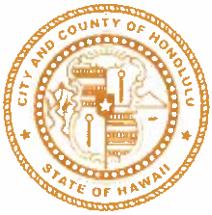
1. Clarify that a nonconforming use certificate ("NUC") for a transient vacation unit ("TVU") may be renewed by a new owner, operator, or proprietor of the TVU, so long as the new owner, operator, or proprietor renews the NUC prior to its expiration.
2. Clarify that an NUC for a bed and breakfast home ("B&B") may be renewed by a new owner, operator, or proprietor of the B&B, so long as the new owner, operator, or proprietor renews the NUC prior to its expiration.
3. Delete provisions relating to B&B and TVU occupancy limits and sleeping arrangement requirements.



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4. Prohibit the advertising of daily or less than monthly (instead of less than three-month) rental rates for the dwelling unit rentals that are not a registered B&B or TVU, or is not operating pursuant to a NUC.
5. Prohibit the advertising of daily or less than monthly (instead of three-month) rental rates for unpermitted B&Bs or unpermitted TVUs.
6. Retain the definitions of B&B and TVU to mean dwelling units (or portions thereof) that are rented for periods of less than 30 days (instead of less than 90 days). Make conforming amendments throughout the ordinance to retain references to a B&B and TVU rental period of less than 30 consecutive days.



Additional Amendments to Proposed Bill 41 (2021), CD2

The following sections of the Revised Ordinances of Honolulu 1990 in the proposed posted CD2 are further amended to include the highlighted amendments:

ITEM NO. 1 – ROH Section 21-4.110-1 (CD2 SECTION 7, pp. 13-14, relating to nonconforming use certificates for transient vacation units ("TVUs"). Add new subsection (e):

**"Sec. 21-4.110-1 ~~[Nonconforming use certificates for transient vacation units.]~~
Transient vacation units—Nonconforming use certificates.**

...

(e) A nonconforming use certificate for a transient vacation unit that has been issued and renewed pursuant to this section may be renewed by a new owner, operator, or proprietor of the transient vacation unit, so long as the new owner, operator, or proprietor renews the nonconforming use certificate prior to its expiration."

ITEM NO. 2 – ROH Section 21-4.110-2 (CD2 SECTION 8, pp. 14-16, relating to nonconforming use certificates for bed and breakfast homes ("B&Bs"). Add new subsection (g):

"Sec. 21-4.110-2 Bed and breakfast homes—Nonconforming use certificates.

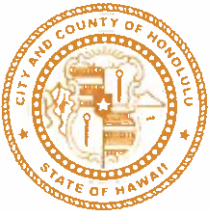
...

(g) A nonconforming use certificate for a bed and breakfast home that has been issued and renewed pursuant to this section may be renewed by a new owner, operator, or proprietor of the bed and breakfast home, so long as the new owner, operator, or proprietor renews the nonconforming use certificate prior to its expiration."

ITEM NO. 3 – ROH Section 21-5.730(b)(3)(B) (CD2 SECTION 9, pp. 21-25, relating to B&B and TVU occupancy limits and sleeping arrangements):

"Sec. 21-5.730 Bed and breakfast homes and transient vacation units.

...



- (b) ~~[In all zoning districts where bed and breakfast homes are permitted, except for the resort district, resort mixed use precinct of the Waikiki special district, and the A-1 low density apartment district and A-2 medium density apartment district pursuant to subsection (a), and except as otherwise provided in subdivision (6), the]~~ The following standards and requirements apply to bed and breakfast homes and transient vacation units; provided that bed and breakfast homes operating under valid nonconforming use certificates pursuant to Section 21-4.110-2, or transient vacation units operating under a valid nonconforming use certificate pursuant to Section 21-4.110-1 need only comply with subdivision (3):

...

- (3) Restrictions and Standards. Bed and breakfast homes and transient vacation units must operate in accordance with the following restrictions and standards:

...

[(F) Occupancy limits and sleeping arrangements are as follows:

(i) All overnight transient occupants must be registered with the owner or operator of the bed and breakfast home or transient vacation unit;

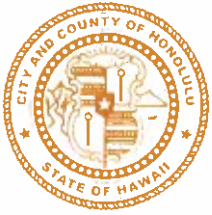
(ii) Except for studio units, sleeping accommodations for all transient occupants must be provided in bedrooms or other rooms that are suitable for sleeping accommodations (such as a sofa bed in a living room), with a maximum of two adults sleeping in each allowable room;

(iii) The total number of adult overnight transient occupants may not exceed two times the number of rooms provided to transient occupants for sleeping accommodations; and

(iv)

- (B) The owner or operator shall maintain a current two-year registry setting forth the names and telephone numbers of all [guests] transient occupants and the dates of their respective stays; . . ."

ITEM NO. 4 – ROH Section 21-5.730(c)(2)(B) (CD2 SECTION 9, pp. 30-31, relating to advertisements):



"Sec. 21-5.730 Bed and breakfast homes and transient vacation units.

...

(c) Advertisements.

...

- (2) Prohibition. Advertisements for [all] specifically identified bed and breakfast homes and transient vacation units, or for the lease or rental of other specifically identified dwelling units where the advertisement may reasonably be read as being an advertisement for the lease or rental of a bed and breakfast home or transient vacation unit, are subject to this subsection.

...

- (B)** It is unlawful for any person to advertise or cause the advertisement of a dwelling unit that is not a registered bed and breakfast home or transient vacation unit pursuant to this section or is not operating under a nonconforming use certificate pursuant to Section 21-4.110-1 or Section 21-4.110-2, for a term of less than 30 consecutive days. Any advertisement for the rental of a dwelling unit that is not a registered bed and breakfast home or transient vacation unit or is not operating pursuant to a nonconforming use certificate as aforesaid may not include daily or less than monthly rental rates, and must include the following statement: "This property may not be rented for less than 30 consecutive days. Rental prices will not be reduced or adjusted based on the number of days the rental is actually used or occupied."

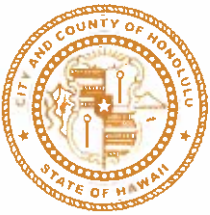
ITEM NO. 5 – ROH Section 21-5.730(d)(2)(D) (CD2 SECTION 9, pp. 33-34, relating to unpermitted B&Bs and unpermitted TVUs):

"Sec. 21-5.730 Bed and breakfast homes and transient vacation units.

...

(d) Unpermitted bed and breakfast homes or unpermitted transient vacation units.

...



- (2) It is unlawful for any owner or operator of an unpermitted bed and breakfast home or unpermitted transient vacation unit, or the owner or operator's agent or representative to:

...

- (D) Advertise, solicit, offer, or knowingly provide rental of an unpermitted bed and breakfast home or unpermitted transient vacation unit to transient occupants for less than 30 consecutive days. An advertisement for an unpermitted bed and breakfast home or unpermitted transient vacation unit that includes daily or less than monthly rental rates will be deemed to be in violation of this paragraph."

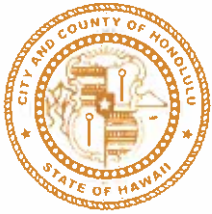
ITEM NO. 6 – ROH Section 21-10.1 (CD2 SECTION 11, pp. 35-36, relating to the definitions of "bed and breakfast home," "rooming," and "transient vacation unit.")

""Bed and breakfast home" means a use in which overnight accommodations are advertised, solicited, offered, or provided, or a combination of any of the foregoing, to [guests] transient occupants, for compensation, for periods of less than 30 consecutive days, in the same [detached] dwelling [as that] unit occupied by an owner, lessee, operator, or proprietor of the [detached] dwelling[.] unit. For purposes of this definition, compensation includes[,] but is not limited to[,] monetary payment, services, or labor of [guests-] transient occupants."

""Rooming" means a use accessory to the principal use of a dwelling unit in which overnight accommodations are provided to persons ("roomers") for compensation for periods of 30 consecutive days or more in the same dwelling unit as that occupied by an owner, lessee, operator, or proprietor of the dwelling unit."

""Transient vacation unit" means a dwelling unit or lodging unit that is advertised, solicited, offered, or provided, or a combination of any of the foregoing, for compensation to transient occupants for less than 30 consecutive days, other than a bed and breakfast home[.], timeshare unit, or hotel unit. For purposes of this definition, compensation includes[,] but is not limited to[,] monetary payment, services, or labor of transient occupants."

Also makes conforming amendments throughout the ordinance to retain references to a short-term rental period of less than 30 consecutive days (instead of less than 90 consecutive days).



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Mahalo,

A handwritten signature in black ink, which appears to read "A. Tupola", is written over a horizontal line.

COUNCILMEMBER ANDRIA TUPOLA
HONOLULU CITY COUNCIL - DISTRICT 1

CC: COMMITTEE ON ZONING AND PLANNING
OFFICE OF THE CITY CLERK
OFFICE OF COUNCIL SERVICES